

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2008-031021-001 DT

09/29/2009

HONORABLE PAUL J. MCMURDIE  
FOR HON. GARY E. DONAHOE

CLERK OF THE COURT  
S. LaMarsh  
Deputy

STATE OF ARIZONA

JUAN M MARTINEZ

v.

JODI ANN ARIAS (001)

KIRK NURMI  
VICTORIA E WASHINGTON

CAPITAL CASE MANAGER  
JUDGE DUNCAN  
VICTIM SERVICES DIV-CA-CCC

MINUTE ENTRY

The Court has received and reviewed Defendant's Motion to set Capital Case for Trial beyond Current Last Day of March 5, 2010. The Court finds that argument on the motion is not necessary.

**MOTIONS TO CONTINUE**

As provided in Rule 8.5.b, any Motion to Continue the trial date must establish the existence of extraordinary circumstances and must justify any delay as being indispensable to the interests of justice for the Court to grant the motion. In determining whether extraordinary circumstances exist and a delay is indispensable to the interests of justice, although not exclusive, the following factors are to be considered by the Court.

1. Were the circumstances cited as reasons for the continuance unforeseeable?
2. Were the circumstances due to lack of preparation?
3. Are the reasons relevant?
4. Is any other party prejudiced?

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Motions to Continue must set forth grounds with specificity. Motions which contain only conclusory statements such as plea negotiations are ongoing, additional time is needed to prepare for trial or investigate the matter, or that all witnesses have not been interviewed are to be denied.

As mentioned in the guidelines to Rule 8, the factors to be considered are not the only factors to be taken in to account by the Court in deciding whether to grant a continuance. If a Motion to Continue by a party cites as grounds for continuance a lawyer's calendar conflict with another case, the Motion must state the lawyers and the judge presiding over the conflicting case, and represent to the Court that an actual conflict exists. If there exists a real scheduling conflict between or among a lawyer's cases, the judges assigned to the cases will consult one another and decide which case is to be tried taking into consideration the age of the cases and any other relevant factors.

In this Case, the Court cannot find an actual conflict exists at this time. Given the preparation that has been done by previous counsel as stated in the motion, the time remaining between now and the current last day, the Court cannot find the existence of extraordinary circumstances that justify delay as being indispensable to the interests of justice.

**IT IS ORDERED** that the motion is DENIED. LAST DAY REMAINS: March 5, 2010.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>